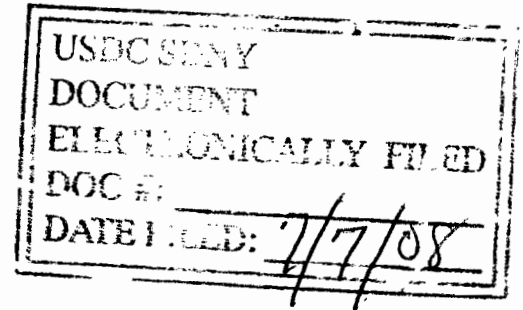


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



-----X
:
ROY TAYLOR ,

Plaintiff,

- against -

DOC C.O. GRAY, et al. ,

Defendants.
-----X

ORDER

07 Civ. 8838 (SAS)

SHIRA A. SCHEINDLIN, U.S.D.J.:

Plaintiff Roy Taylor, proceeding pro se, makes the following motions in his prisoner civil rights case: (1) to amend his Complaint; (2) to stay, dismiss and/or preserve claims; (3) for an extension of time to serve defendants; (4) for a restraining order; (5) to reargue the stay of this matter; and (6) for the production of documents. The City of New York, the New York City Department of Correction, and Warden Bailey (collectively, the "City Defendants") have responded to these motions in a letter-brief.¹ The rulings with regard to these motions are as follows.

Motion to Amend Complaint

Plaintiff moves to dismiss certain defendants and add other

¹ See 5/9/08 Letter from Assistant Corporation Counsel Morgan D. Kunz..

defendants. Because no defendant has yet filed a responsive pleading, plaintiff may amend his Complaint as of right, without leave of this Court, pursuant to Federal Rule of Civil Procedure 15(a)(1)(A). In any event, the City Defendants do not object to the proposed amendments set forth in plaintiff's motion. This motion is therefore granted.

Motion to Stay and/or Dismiss Particular Claims and Preserve Such Claims

Plaintiff moves to stay and/or dismiss the following claims: unreasonable search and seizure; malicious prosecution; racial profiling; excessive bail, and denial of speedy trial. Because this action has been stayed in its entirety pending the disposition of plaintiff's criminal cases, plaintiff's motion to stay is denied as moot. Should plaintiff seek to dismiss any claims, he may do so when he files his Amended Complaint. Finally, plaintiff's ability to resurrect a dismissed claim in the future will depend on the statute of limitations for the particular claim and the "relation back" doctrine.² This Court cannot "preserve" plaintiff's right to reinstate previously dismissed claims. This motion is therefore granted in part and denied in part.

Motion for an Extension of Time

Plaintiff requests an extension of time to serve, through the United

² See Federal Rule of Civil Procedure 15(c).

States Marshals, certain defendants who have not yet been served. This Court is aware that service on corrections officers is sometimes difficult. Plaintiff is therefore granted an extension, until August 29, 2008, to serve the remaining defendants. As for any newly added defendants, plaintiff will have 120 days from the date the Amended Complaint is filed to effect service.³ This Court's Pro Se Office is directed to send plaintiff any necessary mailing packages and Summonses.

Motion for a Restraining Order

Plaintiff moves for a restraining order against certain personnel at his facility: the "NIC Mail Room Administrators and the NIC Cashier." Plaintiff complains that his legal mail is not being mailed to the federal courts in a timely manner, if at all. It is not clear, however, what actions plaintiff wants to have restrained. In any event, as demonstrated by the numerous motions and letters that plaintiff has sent since he submitted the instant motion on February 28, 2008, it is apparent that his mail is being sent out. Accordingly, this motion is denied.

Motion for Reargument

In a motion dated March 22, 2008, plaintiff asks this Court to reconsider the stay of this action in its entirety. Plaintiff argues that this Court

³ See Federal Rule of Civil Procedure 4(m).

“rushed to judgement” and that the portions of his Complaint that deal with issues not affected by his pending criminal cases should be allowed to proceed, including his claims for conditions of confinement, excessive force, deliberate indifference to medical needs, and denial of access to the Courts. Many of the claims raised by plaintiff will be affected by the outcome of the pending criminal proceedings. Thus, it would save this Court’s time and resources, as well as that of the parties, to wait for the criminal cases to be resolved before addressing any issues raised in the Complaint. However, plaintiff claims that he currently is suffering as a result of the above alleged violations. Accordingly, this Court will consider whether to reinstate some of plaintiff’s claims to the active docket at the next court conference. Decision on this motion is therefore reserved.

Motion for the Production of Documents

In motions dated March 19, 2008 and April 18, 2008, plaintiff asks the Court to compel the City Defendants to produce photographs he believes are maintained by the New York City Department of Correction. The photographs were allegedly taken following an incident that occurred at 111 Centre Street on May 11, 2007. The City Defendants object to plaintiff’s request as premature, given that the action has been stayed pending the resolution of plaintiff’s criminal cases. Although this case has indeed been stayed, there is no harm in giving

plaintiff the photographs he requested. The City Defendants are hereby ordered to produce any photographs relevant to plaintiff's request, in their possession, within thirty (30) days of this Order.

The Clerk of the Court is directed to close the above-referenced motions (Documents # 25, 26, 27 & 28). The City Defendants are directed to notify Chambers once plaintiff's criminal cases have been resolved. A conference is scheduled for July 28, 2008, at 4:30 p.m. in Courtroom 15C.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
July 3, 2008

- Appearances -

Plaintiff (Pro Se):

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For the City Defendants:

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